



# TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

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## Part V—Section 4

### Notifications by the Election Commission of India

#### NOTIFICATION BY THE ELECTION COMMISSION OF INDIA

NOTIFICATION FOR ELECTION COMMISSION'S ORDER NO. 100/TN-LA/1/2019, DATED 06-01-2019 REGARDING RESCINDING OF THE PROCESS OF BYE-ELECTION TO TAMIL NADU LEGISLATIVE ASSEMBLY FROM 168. THIRUVARUR ASSEMBLY CONSTITUENCY.

**No. SRO G-2/2019.**

The following Notification of the Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110 001, dated 6th January, 2019 [16 Pausha, 1940 (Saka)] is published:-

No.100/TN-LA/1/2019: - Whereas, the Commission had issued Notification No. 100/TN-LA/1/2019, dated 3rd January, 2019 under sub-section (1) of Section 150, calling upon the electorate of 168-Thiruvurur Assembly Constituency in the State of Tamil Nadu to elect, before the 6th February, 2019, a person for the purpose of filling the vacancy of Shri M. Karunanidhi, which had become vacant with effect from 7th August, 2018, due to his death.

Whereas, the Commission had notified, under sections 30 and 56 of the Representation of the People Act, 1951 (43 of 1951), the schedule of election, appointing, *inter alia*, the 28th January, 2019 as the date on which the poll was scheduled to be held; and

Whereas the Commission has rescinded the process of aforesaid bye-election, vide its order of even No. dated 6th January, 2019, for the reasons stated therein;

Now, therefore, the Commission 's said order of even No. dated 6th January, 2019 is published hereunder for information of general public.

(By order)

MALAY MALLICK,  
Secretary,  
Election Commission of India.

Secretariat,  
Chennai-600 009.  
6th January, 2019.

SATYABRATA SAHOO,  
Chief Electoral Officer and  
Secretary to Government,  
Public (Elections) Department.

**ELECTION COMMISSION'S ORDER REGARDING RESCINDING OF THE PROCESS OF BYE-ELECTION TO TAMIL NADU LEGISLATIVE ASSEMBLY FROM 168. THIRUVARUR ASSEMBLY CONSTITUENCY**

**No. SRO G-3/2019.**

The following order of the Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110 001, dated 6th January, 2019 is published:-

A vacancy arose in the State Legislative Assembly of Tamil Nadu from 168- Thiruvavarur Assembly Constituency with effect from 07.08.2018 due to demise of Shri. M. Karunanidhi. As per section 151 A of the Representation of the People Act, 1951 (43 of 1951) (hereinafter referred as 'the RP Act, 1951'), the bye-election to fill the vacancy is required to be held within a period of six months, i.e. by 06.02.2019.

2. Accordingly, the Election Commission of India, vide its notification No. 100/TNLA/ 1/2019 dated 3rd January, 2019, in pursuance of sub-section (1) of Section 150 of the RP Act, 1951, called upon the said Assembly Constituency in the State of Tamil Nadu to elect a member and under sections 30 and 56 of the RP Act, 1951, the Commission fixed different dates for various stages of election, as under:-

- (a) the 10th January, 2019 (Thursday), as the last date for making nominations;
- (b) the 11th January, 2019 (Friday), as the date for the scrutiny of nominations;
- (c) the 14th January, 2019 (Monday), as the last date for the withdrawal of candidatures;
- (d) the 28th January, 2019 (Monday), as the date on which a poll shall, if necessary, be taken; and
- (e) the 31st January, 2019 (Thursday), as the date before which the election shall be completed.

3. Chief Secretary, Tamil Nadu in her letter dated 03.12.2018 apprised the commission regarding cyclone 'Gaja', mentioning that it devastated the delta district and severely affected a total of 12 districts in the State. The cyclone caused extensive damage to the standing agriculture, horticulture crops and livelihood of the people in these 12 districts. Around 6 lakh houses, 1.5 lakh electric poles, a large number of transformers & substations have been damaged. Thiruvavarur district is one of the main districts which bore the brunt of the cyclone and it will take at least three months for life to return to normal in the district. Therefore, she requested not to hold the bye-election to Thiruvavarur assembly constituency (which is to be filled in by 06.02.2019) before April, 2019. In this communication, she also requested not to conduct bye-election in those 18 assembly constituencies, where vacancies are required to be filled in by April, 2019.

4. In the light of the letter received from Chief Secretary, Tamil Nadu, the Commission vide its letter dated 28th December, 2018, requested the Ministry of Home Affairs (MHA), Government of India, being the administrative ministry for calamity and disaster management, to give its views in the matter.

5. In response to the Commission's letter, MHA on 31.12.2018 furnished its views on the ongoing relief and rehabilitation work in the 12 districts of Tamil Nadu affected by cyclone 'Gaja'. The comments of MHA are as follows:-

(i) The severe cyclonic Storm 'Gaja' had a landfall near Vedaranyam, Nagapattinam districts of Tamil Nadu in the late night on 15th November, 2018 and in early hours on 16th November, 2018.

(ii) IMCT (Inter-Ministerial Central Team) has reported severe destruction in 5(five) districts viz. Nagapattinam, Tiruvavarur (*Thiruvavarur*), Thanjavur, Pudukkottai & Dindigul. It resulted in damages to agricultural and horticultural crops/plantations, houses and huts, besides extensive damages to public and private property and power infrastructure. Further, there is normal damage in 7(seven) districts.

(iii) As per the National Disaster Management Policy, the primary responsibility for disaster management including undertaking relief and rehabilitation measures rest with the States. Accordingly, necessary relief and rehabilitation measures in the area affected by the cyclone 'Gaja' are required to be undertaken by the State Government of Tamil Nadu.

Further, it stated that the State Government would be in the best position to assess the time frame for carrying out relief and rehabilitation measures in the cyclone affected areas, since execution of the necessary measures on the ground is the responsibility of the State administration.

6. On 02.01.2019, National Secretary, Communist Party of India, vide its e-mail requested the Commission to postpone the said bye-election after consultation with the Central Government. Subsequently, he met the Commission on 03.01.2019 to underscore the issues mentioned in the e-mail. Further, he stated that due to the said cyclone the State machineries are busy with the relief and restoration of the cyclone affected areas, and many residents of the district - Thiruvavur have been displaced due to the cyclone and have migrated temporarily to other districts. Taking note of the situation, the Commission directed the Chief Electoral Officer, Tamil Nadu to furnish a detailed report in the matter.

7. On 06.01.2019, the Chief Electoral Officer furnished a detailed report. In the report, he has mentioned that the District Election Officer, Thiruvavur invited all the recognised political parties in the district for a meeting on 05.01.2019 and all of them including Communist Party of India (Marxist), Bharatiya Janata Party, Indian National Congress, Nationalist Congress Party, All India Anna Dravida Munnetra Kazhagam, Dravida Munnetra Kazhagam and Desiya Murpokku Dravida Kazhagam requested to postpone the electoral process in view of the ongoing relief and rehabilitation works in the district.

8. Further, the District Election Officer, Thiruvavur submitted, in the report, that,

(i) the district administration needs time to ascertain the details of any migration of the families as the same cannot be ruled out;

(ii) the relief distribution is half way and needs time to complete and the same set of officers are incharge of relief works as well as election related works;

(iii) the prime festival of the land, viz. Pongal falls during the period of election;

(iv) the harvest of Samba cultivation is due and opening of Direct Procurement Centres is inevitable as and when required in the villages, which may be construed or raised as an issue by some political parties as a breach of Model Code of Conduct, though it is a regular activity;

(v) the affected people are yet to return back to normal life;

(vi) the Merchant associations too were not in favour of elections at the juncture;

(vii) the students facing public examinations may be put to hardship since the teachers form the core of the Polling Personnel. With hardly 2 months left for their examination conduct of elections at this time will have an effect on the academic performance of the students;

(viii) active participation of the public in the polling may get affected due to the aforesaid reasons;

(ix) almost all the political functionaries who took part in the all party meeting unilaterally requested to postpone the bye-election to 168-Thiruvavur Assembly Constituency.

9. Thus, having regard to the totality of the facts and circumstances enumerated above, and taking note of the fact that necessary relief and rehabilitation measures in the area affected by the cyclone 'Gaja' are required to be undertaken by the State Government of Tamil Nadu and the district administration of Thiruvavur, which has to conduct the said bye election, continues to be pre-occupied with the relief and rehabilitation works, the Commission is of the considered view that the process of conduct of bye-election from **168-Thiruvavur** Assembly Constituency of Tamil Nadu can not be continued at present. In this context, it may be relevant to state that the Hon'ble Supreme Court, while holding in Election Commission vs. State of Haryana (AIR 1984 SC 1406) that '*the ultimate decision as to whether it is possible and expedient to hold the elections at any given point of time must rest with the Election Commission*', has further observed in that case that '*A sense of realism, objectivity and non-alignment must inform the decision of the Commission on such issue*'.

10. Accordingly, the Commission hereby directs, under Article 324 of the Constitution read with sections 150, 30, 56 of the Representation of the People Act, 1951, and further read with Section 21 of the General Clauses Act, 1897 and all other power enabling it in this behalf, that the Commission's Notifications No. 100/ TN-LA/1/2019 dated 3rd January, 2019, calling upon the said **168-Thiruvavur** Assembly Constituency to elect a member of Legislative Assembly shall stand **rescinded** forthwith. Consequently, all actions and steps taken by the Returning Officer of the said 168-Thiruvavur Assembly Constituency, District Election Officer and all other electoral authorities concerned are hereby declared as null and void.

11. The bye-election to fill the above vacancy in the Legislative Assembly from **168-Thiruvavur** Assembly Constituency will be held by the Commission in due course when the situation becomes conducive to the holding of free, fair and peaceful election.

ORDERED ACCORDINGLY

Sd/-  
(SUNIL ARORA)  
CHIEF ELECTION COMMISSIONER  
New Delhi the 6th January, 2019  
No. 100/TN-LA/1/2019.

Sd/-  
(ASHOK LAVASA)  
ELECTION COMMISSIONER

(By Order)

MALAY MALLICK,  
*Secretary,*  
*Election Commission of India.*

Secretariat,  
Chennai-600 009.  
6th January, 2019.

SATYABRATA SAHOO,  
*Chief Electoral Officer and*  
*Secretary to Government,*  
*Public (Elections) Department.*